

DOCKET # 1 COPY ORIGINAL

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT - 1 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations
(Cal-Nev-Ari, Nevada)

RM- _____

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OCT - 1 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Branch
Audio Services Division
Mass Media Bureau

Attention: Mail Stop 1800D5

PETITION FOR RULE MAKING

1. Richard W. Myers hereby petitions the Commission to amend the FM Table of Allotments to add Channel 285A at Cal-Nev-Ari, Nevada, as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Cal-Nev-Ari, NV	--	285A

2. The coordinates of the center of Cal-Nev-Ari^{1/} do not comply with the mileage separation requirements of Section 73.207(a) of the Commission's Rules. However, there is a reference point available, at 35°15'04" north latitude, 114°44'46" west longitude, which does meet the requirements of Section 73.207(a); that reference point is proposed for the Cal-Nev-Ari allotment.

^{1/} The center of Cal-Nev-Ari is at 35°18'20" north latitude, 114°52'58" west longitude.

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MMB

3. Attached hereto as Exhibit E^{2/} is an Engineering Statement demonstrating (a) that Channel 285A may be allotted to Cal-Nev-Ari at the proposed reference point in compliance with all mileage separation requirements of Section 73.207(a), including Class B separations to Mexican stations and allotments, and (b) that a Class A station constructed on Channel 285A at the reference point will place a 3.16 mV/m contour over all of Cal-Nev-Ari.

4. Because Cal-Nev-Ari is within 320 km. of the U.S.-Mexican border, a Class A allotment would normally be restricted to maximum facilities of 3 kW ERP at 91 meters HAAT. However, because the proposed Channel 285A allotment meets Class B mileage separation requirements to Mexican stations and allotments, it is requested that the Commission notify the allotment to the Mexican government as a Class B allotment, thereby permitting operation at 6 kW/100 meters under United States rules.

5. Although the permanent population of Cal-Nev-Ari is small (approximately 300 persons), Cal-Nev-Ari is a viable community for licensing purposes.^{3/} It is listed in the November 1990 Populated Places Listing published by the

^{2/} Exhibits A, B, and C are discussed infra. There is no Exhibit D.

^{3/} Most of the community's residents are retired persons. The permanent population grows during the winter, when temporary residents known as "snowbirds" bring their recreational vehicles to the area and live there through the winter months.

Department of Commerce.^{4/} It is a physically distinct community, surrounded on all four sides by federal government land. Cal-Nev-Ari is marked on the Rand McNally road map of Nevada^{5/} and is also designated as a separate community in the Sprint local telephone directory.^{6/} Individuals living in this community consider themselves to be residents of "Cal-Nev-Ari." There are road signs identifying Cal-Nev-Ari along U.S. Route 95, which runs parallel to the Cal-Nev-Ari border. U.S. 95 is a well-traveled route between Arizona and Las Vegas.^{7/} Nevada Route 163, another well-traveled route to Las Vegas, which feeds into U.S. 95 carrying traffic from Arizona communities along the Colorado River, is also within the proposed 3.16 mV/m contour. Thus, in addition to providing service to the residents of Cal-Nev-Ari itself, a station licensed to Cal-Nev-Ari would also serve and derive economic support from the thousands of travelers along Routes 95 and 163.^{8/}

^{4/} It is not a "Census Designated Place" in the 1990 U.S. Census and is not an incorporated community.

^{5/} A segment of a road map showing the location of Cal-Nev-Ari is attached hereto as Exhibit A.

^{6/} While Sprint is generally known as an interexchange carrier, it is the local telephone company in Cal-Nev-Ari as a result of its merger with Centel, a local exchange carrier serving substantial parts of Nevada.

^{7/} The 1992 Nevada State Highway Department survey reports that approximately 6485 vehicles pass Cal-Nev-Ari on Highway 95 every day.

^{8/} The Commission has allotted channels to small communities in California which were primarily used to provide service to the travelers along Route 15, a major road used to connect Las Vegas
(continued...)

6. Cal-Nev-Ari has the following community facilities and institutions:

- A mile-long lighted airstrip used for private aviation. Many local residents have their own private planes with hangars and homes built along the runway. This airstrip is the common bond that has caused most residents to settle in Cal-Nev-Ari.
- A volunteer fire department, which is an important focus of community life.
- A United States Post Office.^{9/}
- A 24-hour casino and restaurant. Frequent meetings of the Police Department and Aviation Club are held at the casino restaurant. AmVets also meets regularly in Cal-Nev-Ari.
- A gasoline station, grocery store, restaurant, bar and motel.
- An RV park, which accommodates overnight visitors and "snowbirds."

7. Cal-Nev-Ari is a separate and distinct community. It is not located anywhere near any other community with a significant population. One must travel over 25 miles to the south or 45 miles to the north to reach any other community of meaningful size.^{10/} All of the community facilities and institutions listed in Paragraph 5 above are used to serve the needs of Cal-Nev-Ari residents exclusively and do not also serve the needs of

^{8/} (...continued)
and Los Angeles. See Yermo and Mountain Pass, California, 45 RR 2d 58 (1979).

^{9/} Attached as Exhibit B is a copy of the Cal-Nev-Ari postmark on a postcard from the Cal-Nev-Ari casino.

^{10/} Searchlight, Nevada, is shown on local maps as being closer to Cal-Nev-Ari; but it is not substantially different in size from Cal-Nev-Ari, and Cal-Nev-Ari is not dependent on Searchlight in any way.

persons in a neighboring community. Other essential services, such as police protection and schools, are provided on a county-wide basis by Clark County and not from a neighboring community.^{11/} In sum, Cal-Nev-Ari is a separate, licensable community of sufficient size and development to warrant its own radio station.^{12/}


8. Attached hereto as Exhibit C is Mr. Myers' statement that if Channel 285A is allotted as requested, he will file an application for construction permit and, if authorized, will construct and operate a station on the allotted channel.

^{11/} Clark County covers an extremely broad area, ranging from north of Las Vegas all the way to the Arizona border at the southern tip of the state -- a distance of over 120 miles. It includes cities and communities of many different sizes with distinctly different bonds; it is not a "community" of its own. Thus it would be inappropriate to consider Cal-Nev-Ari as simply a division of a county, as the Commission appears to have done in Pike Road, Alabama, Notice of Proposed Rule Making in MM Docket No. 93-244, released September 21, 1993.

^{12/} Cal-Nev-Ari's physical separation from any other community is a critical element in establishing its qualification for licensing of a radio station. In other cases where the Commission has rejected a community for licensing or allotment purposes, it has generally found that the proposed location is not separable from a larger community, e.g., North Naples and Immokalee, Florida, 41 RR 2d 1549 (1977) (North Naples held not to be a separate community from adjacent Naples). If Cal-Nev-Ari is not found to be a "community," then its residents will have been determined to live nowhere, because they cannot be said to be a part of another larger community. See footnote 11, supra.

9. In light of the foregoing, it is respectfully requested that the Commission allot Channel 285A to Cal-Nev-Ari, Nevada, as proposed herein.

Respectfully submitted,

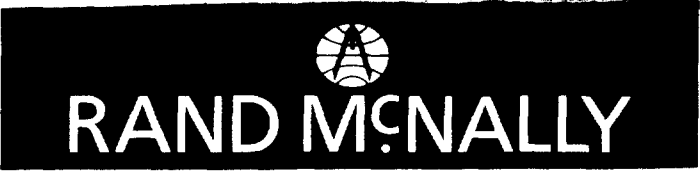

Peter Tannenwald


Kathleen L. Franco

Arent Fox Kintner
Plotkin & Kahn
1050 Connecticut Ave., N.W.
Washington, DC 20036-5339
(202) 857-6024/775-5740

October 1, 1993

Counsel for Richard W. Myers



Nevada Utah

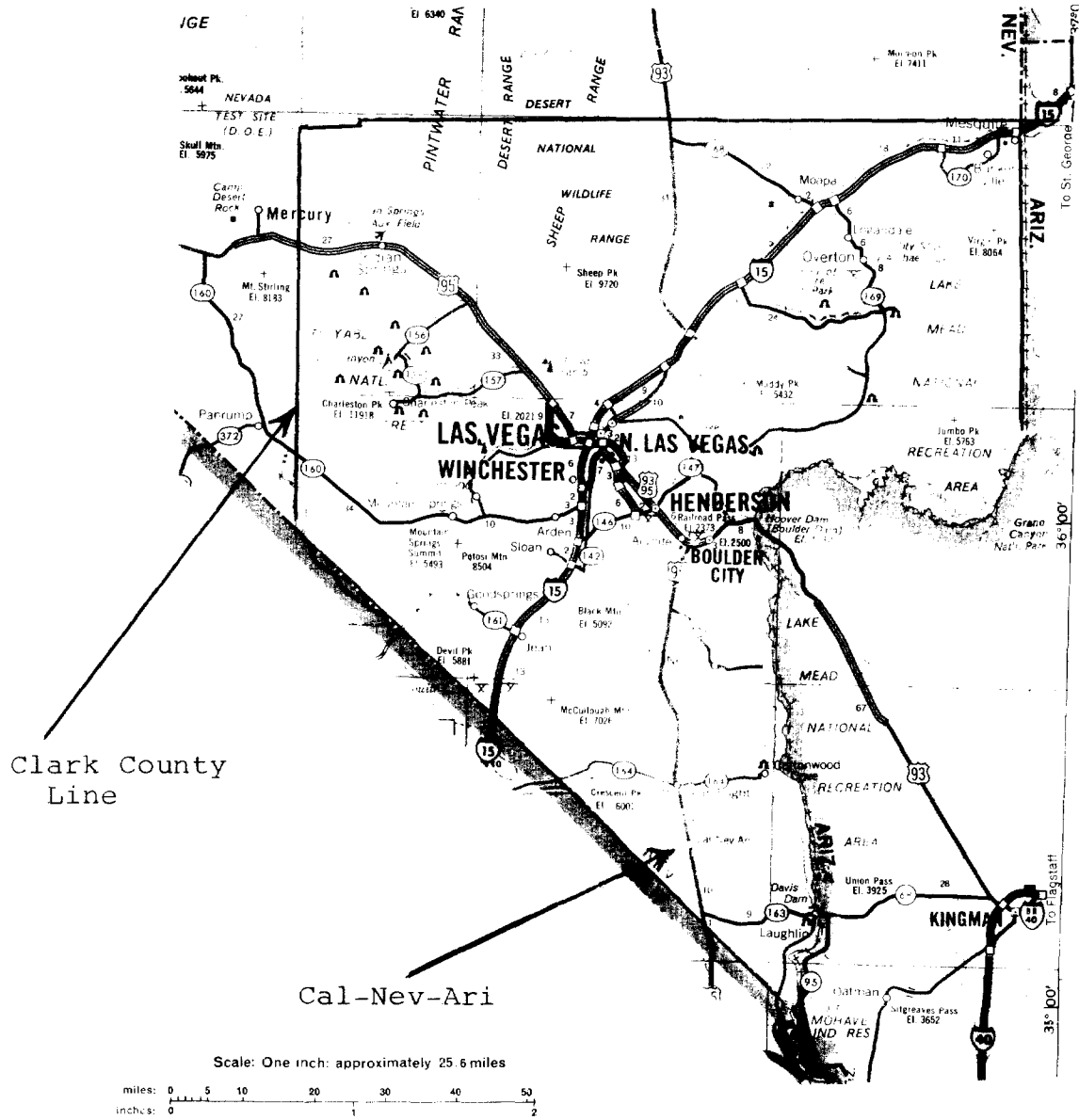


EXHIBIT B



CAL-NEV-ARI CASINO
Fly In, Drive In, Jump In!



CAL-NEV-ARI CASINO
Hwy. 95, Cal-Nev-Ari, Nevada 89046
Phone (702) 297-9289
"Fly In, Drive In, Jump In!"
Liberal Slots, "21", Bar, Restaurant, Coffee Shop, Kiosk, Airport, Exxon 80/87 - 100/130 Fuel, RV Park, Laundromat, Mobile Home Park, Service Station with Diesel Fuel, U.S. Post Office.

VEGAS,



RICH MYERS
700 S. 3RD
LAS VEGAS, NV.
89101

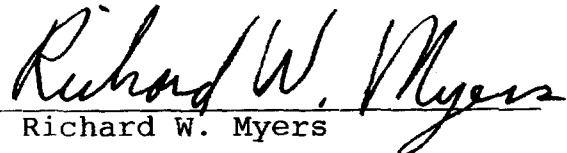
DECLARATION OF RICHARD W. MYERS

RICHARD W. MYERS hereby declares as follows:

1. I am a citizen of the United States and a resident of the State of Nevada. To my knowledge, I am eligible in all respects to hold an FM broadcast station license.
2. I request that FM Channel 285A be allotted to Cal-Nev-Ari, Nevada.
3. I have read the foregoing Petition for Rule Making to allow Channel 285A to Cal-Nev-Ari. The statements of fact made therein are true and correct to the best of my knowledge and belief.
4. If Channel 285A is allotted as requested, I will file an application for construction permit and, if authorized, will construct and operate a station on the allotted channel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 30, 1993


Richard W. Myers

RICHARD W. MYERS
BF (New) - Cal-Nev-Ari, NV

PETITION FOR RULEMAKING
Engineering Statement

At the request of Richard W. Myers, we have prepared this engineering statement in support of a Petition for Rulemaking which seeks FM Channel 285A as a new allocation to Cal-Nev-Ari, Nevada.

The center coordinates of the community of Cal-Nev-Ari are specified as 35°18'20"N and 114°52'58"W in the fiche titled Populated Places Listing of November, 1990, prepared by the United States Geodetic Survey. This location does not meet all of the mileage separation requirements of Section 73.207(a) of the Commission's Rules. Accordingly, an alternate reference point has been selected at 35°15'04"N and 114°44'46"W.

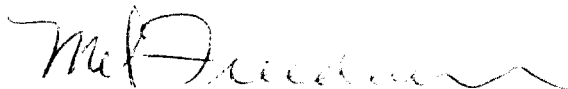
Exhibit E-1 is a table demonstrating that the proposed reference point is fully spaced to all pertinent facilities. The reference point is within 320 km of the United State-Mexican border and so would normally be subject to maximum facilities of 3 kW/91 meters. However, the separations to existing Mexican stations and allotments shown in Exhibit E-1 demonstrate that the proposed Channel 285 allotment complies with the mileage separation requirements agreed upon between the United States and Mexico for a class B allotment. Therefore, the allotment may be notified to Mexico as a Class B allotment, allowing operation with the full 6kW/100 meter maximum for domestic Class A facilities.

Exhibit E-3a is a map which shows the proposed reference point and demonstrates that from that point, a Class A station will place a 3.16 mV/m

signal over all of Cal-Nev-Ari, as required by Section 73.315(a) of the Rules. This map is based on operation with 6 kW/100 meters or the equivalent, thus assuming Class B notification to Mexico. Exhibit E-3b is a segment from the Tenmile Well, NV, 7.5' quadrangle, showing the boundaries of Cal-Nev-Ari and the location of the center coordinates of the community. The coordinate point was transposed to Exhibit E-3a in preparing the showing of 3.16 mV/m coverage.

Attention is further directed to the fact that the proposed reference point is elevated over the surrounding terrain, thereby making it suitable for a transmitter site, and that the radio path from the reference point to Cal-Nev-Ari is unobstructed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Mel Freedman', with a long horizontal flourish extending to the right.

Mel Freedman
Engineer for Richard W. Myers

27 September 1993

Mr. Mel Freedman
Hughson, CA

Page 1
Sep 21, 1993

Constraints Study FM Channel 285A

Title: RICHARD W. MYERS
Reference City: Cal-Nev-Ari, NV
Translators Are Not Included
Audit File: fms09213.A04

Latitude: 35-15-04
Longitude: 114-44-46
FCC Database: 930825

Call	Auth	Licensee Name	Char	ERP-kW	Latitude	Az-to	Dist	Req
City of License	St	FCC File No.	Freq	EAH-m	Longitude	-from	(km)	(km)
KXTZ	LIC	Desert Comm. Enterpri	231C	100.	36-00-26	344.4	87.15	29
Henderson	NV	BLH-810226AG	94.1	369	115-00-24	164.3	58.15	CLEAR
	USED		231C		36-00-26	344.4	87.15	29
Henderson	NV		94.1		115-00-24	164.3	58.15	CLEAR
Coordinates updated from LIC record BLH810226AG								
KJUL	LIC	Carrigan Communicatio	282C	24.5	35-58-02	319.6	104.88	95
North Las Vegas	NV	BLH-890413KC	104.3	1136	115-30-06	139.2	9.88	CLEAR
	USED		282C		36-12-06	342.8	110.53	95
North Las Vegas	NV		104.3		115-06-42	162.6	15.53	CLEAR
EFFECTIVE 9-11-86 Docket: 86-70								
KZULFM	CP MOD	Mad Dog Wireless, Inc	283C2	1.05	34-33-06	146.9	92.58	55
Lake Havasu City	AZ	BMPH-920727IB	104.5	814	114-11-37	327.2	37.58	CLEAR
From Channel 286C3 Per D90-468								
	USED		283C2		34-32-54	147.0	92.89	55
Lake Havasu City	AZ		104.5		114-11-37	327.3	37.89	CLEAR
Effective 10-15-91-Reserved for KZULFM per D90-468 Docket: 90-468								
KZULFM	LIC	Mad Dog Wireless, Inc	286C3	0.28	34-32-54	147.0	92.89	89
Lake Havasu City	AZ	BLH-910124KC	105.1	702	114-11-37	327.3	3.89	CLOSE
*To Channel 283C2 Per D90-468								
	USED		286C2		36-17-46	335.0	128.17	106
Las Vegas	NV		105.1		115-21-01	154.7	22.17	CLEAR
SITE RESTRICTED - EFFECTIVE 4-17-86 Docket: 84-655								
KRBO	CP MOD	Patmor Broadcasting G	286C2	50.0	36-20-00	335.4	132.33	106
Las Vegas	NV	BMPH-921210IH	105.1	11	115-21-41	155.1	26.33	CLEAR
	USED		288C2		35-58-42	354.1	81.12	55
Boulder City	NV		105.5		114-50-18	174.1	26.12	CLEAR
EFFECTIVE 6-20-88-RSVD FOR KRRI PERD87-519 Docket: 87-519								

Mr. Mel Freedman
Hughson, CA

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Sep 21, 1993

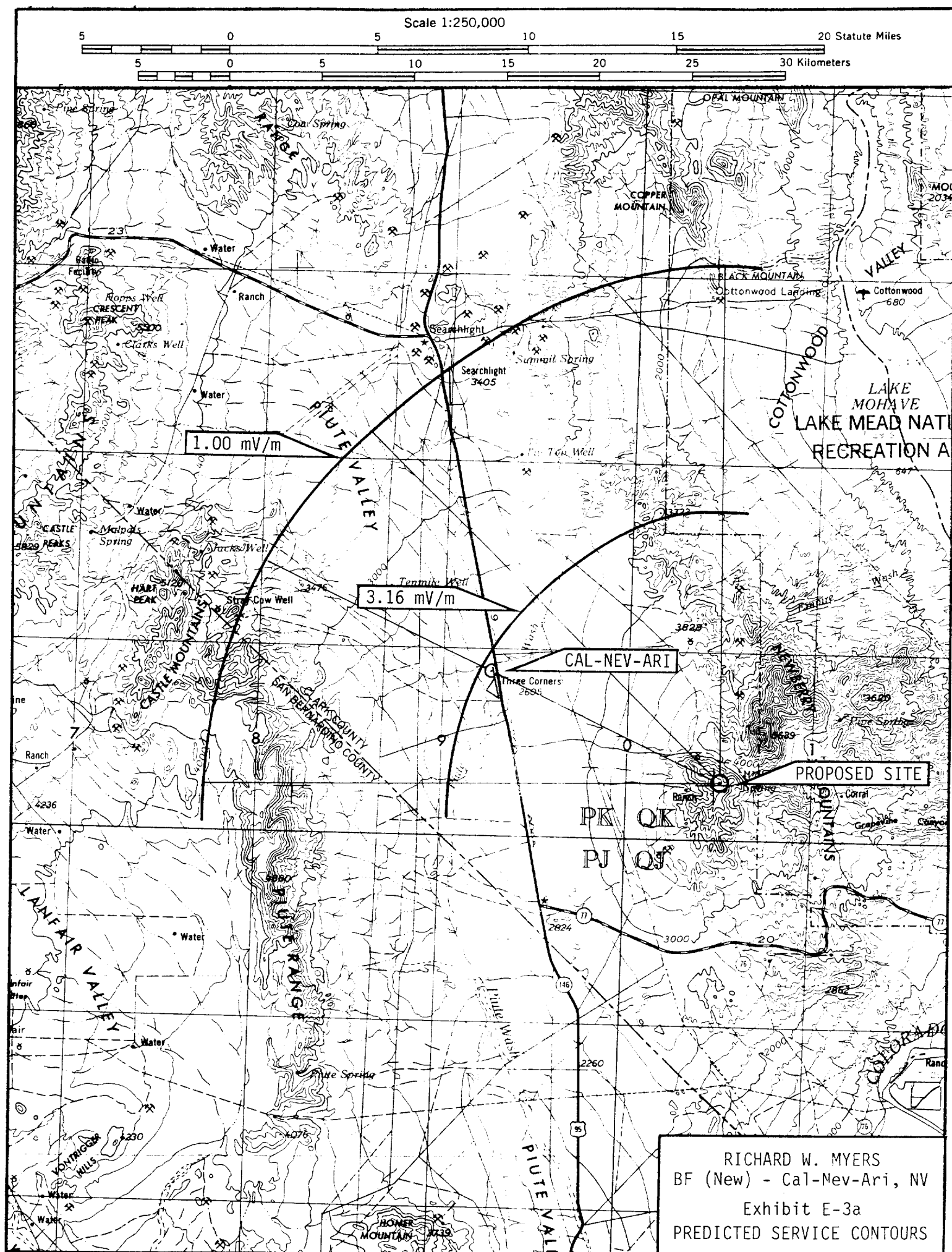
Constraints Study FM Channel 285A

Title: RICHARD W. MYERS
Reference City: Cal-Nev-Ari, NV
Translators Are Not Included
Audit File: fms09213.A04

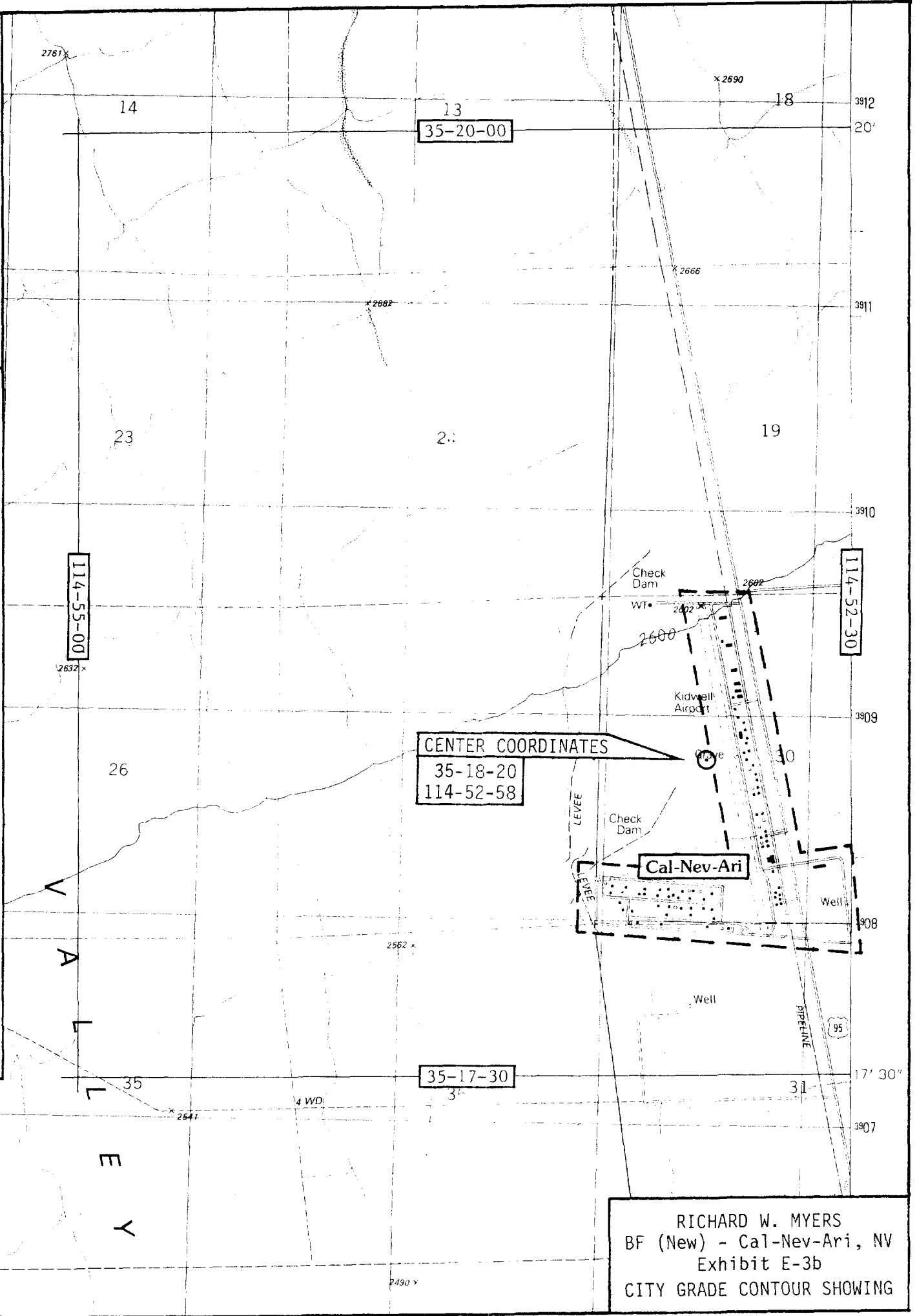
Latitude: 35-15-04
Longitude: 114-44-46
FCC Database: 930825

Call	Auth	Licensee Name	Chan	ERP-kW	Latitude	Az-to	Dist	Req
City of License	St	FCC File No.	Freq	EAH-m	Longitude	-from	(km)	(km)
KRRI	LIC	Rock 'N Roll, Inc.	28802	3.7*	35-59-45	352.7	83.32	55
Boulder City		NV BLH-890306KB	105.5	484	114-51-51	172.6	28.32	CLEAR

End of Constraints Study FM Channel 285A



TENMILE WELL, NEV.-CALIF.
PROVISIONAL EDITION 1989



CENTER COORDINATES
35-18-20
114-52-58

RICHARD W. MYERS
BF (New) - Cal-Nev-Ari, NV
Exhibit E-3b
CITY GRADE CONTOUR SHOWING